

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TYRONE LASTER,

Plaintiff,

-against-

DET. ROBERT J. MANCINI, 43 PCT., P.O. DOUGLAS
VINCENT, 43 PCT. #31914, LT. GRIBBEN, 43 PCT.
#596407, NEW YORK POLICE DEPARTMENT,

Defendants.

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ANSWER

07 CV 8265 (DAB)

Jury Trial Demanded

Defendants Detective Robert Mancini, Police Officer Douglas Vincent, Lieutenant James Gribben, and the New York City Police Department,¹ by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their answer to the complaint, respectfully allege, upon information and belief, as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “I” of the complaint and all of its subparts thereto.

2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “II” of the complaint and all of its subparts thereto, except admit that plaintiff concedes he did not present the facts relating to his complaint in the prisoner grievance procedure.

3. Deny the allegations set forth in paragraph “III” of the complaint and all of its subparts thereto, except admit that plaintiff purports to name the parties as stated therein.

¹ Defendants respectfully submit that the New York City Police Department is not a suable entity.

4. Deny the allegations set forth in paragraph “IV” of the complaint, except admit that plaintiff was arrested and handcuffed on or about September 26, 2006 at 1471 Watson Avenue, Apartment 6D, Bronx, New York.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “IV. A” of the complaint.

6. Deny the allegations set forth in paragraph “V” of the complaint, except admit that plaintiff purports to seek the relief as stated therein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

7. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

8. Defendants have not violated any rights, privileges or immunities secured to plaintiff by the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have defendants violated any act of Congress providing for the protection of civil rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

9. The individually named defendants have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore are protected by qualified immunity.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

10. At all times relevant to the acts alleged in the complaint, defendants acted reasonably in the proper and lawful exercise of their discretion.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

11. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and/or the intervening conduct of third parties, and was not the proximate result of any act of the defendants.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

12. Plaintiff provoked any incident.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

13. Plaintiff's claims may be barred, in whole or in part, because plaintiff failed to comply with all conditions precedent to suit.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

14. Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations period.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

15. Plaintiff's claims may be barred, in whole or in part, by the doctrines of res judicata and/or collateral estoppel.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

16. The actions of any police officers involved were justified by probable cause.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE:

17. The New York City Police Department is a non-suable entity.

WHEREFORE, defendants Detective Mancini, Police Officer Vincent, Lieutenant James Gribben, and the New York City Police Department request judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
February 4, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants Detective Mancini, Police
Officer Vincent, Lieutenant Gribben, and the New
York City Police Department
100 Church Street
New York, New York 10007
(212) 788-0971

By: _____/s/
Anna Nguyen
Assistant Corporation Counsel

To: BY MAIL
Tyrone Laster, #59500-054
Plaintiff Pro Se
Metropolitan Correctional Center
150 Park Row
New York, NY 10007

DECLARATION OF SERVICE BY FIRST CLASS MAIL

I, Anna Nguyen declare, pursuant to 28 U.S.C. § 1746, under the penalty of perjury that on **February 4, 2008** I served the annexed **Answer** upon the following individual by depositing a copy of the same, enclosed in a first class postpaid properly addressed wrapper, in a post office/official depository under the exclusive care and custody of the United States Postal Service, within the State of New York, directed to the said plaintiff pro se at the address set forth herein, being the address designated by said plaintiff for that purpose, to wit:

Tyrone Laster, #59500-054
Plaintiff Pro Se
Metropolitan Correctional Center
150 Park Row
New York, NY 1000

Dated: New York, NY
February 4, 2008

_____/s/
Anna Nguyen
Assistant Corporation Counsel
Special Federal Litigation

Index No. 07 CV 8265 (DAB)

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POLICE DEPARTMENT,

Defendants.

ANSWER

MICHAEL A. CARDOZO

*Corporation Counsel of the City of New York
Attorney for Defendants Detective Mancini, Police
Officer Vincent, Lieutenant Gribben, and the New York
City Police Department
100 Church Street
New York, N.Y. 10007*

*Of Counsel: Anna Nguyen
Tel: (212) 788-0971
NYCLIS No.2007-032043*

Due and timely service is hereby admitted.

New York, N.Y., 200.....

..... Esq.

Attorney for.....